

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEBRASKA

HBI, L.L.C., A Nebraska Limited Liability Company,	)	
	)	Case No. BK09-82347
	)	ADV. No. 10-08038
	)	
Plaintiff,	)	EMERGENCY MOTION FOR
	)	CONTINUATION OF AUTOMATIC
v.	)	STAY IN CASE FILED WITHIN ONE
	)	YEAR AFTER DISMISSAL OF
DEWAYNE K. LONG,	)	PRIOR BANKRUPTCY CASE
	)	
Defendant.	)	

The Debtor hereby moves this Court, pursuant to section 362(c)(3)(B), for an order continuing the automatic stay provided under section 362(a) as to all creditors. In support of this motion, the Debtor states as follows:

1. The Debtor filed a petition under chapter 13 on September 3, 2009.
2. This case was dismissed on May 4, 2010 because the Debtor, had not converted the chapter 13 to chapter 7 or dismissed the case.
3. The Debtor disagreed that his residence was valued at the amount stated in the creditor's claim which rendered the Debtor ineligible for chapter 13.
4. The Debtor filed an appeal of the dismissal of his case on June 22, 2010.
5. The transmitted of the appeal was transferred to the District Court on July 7, 2010.
6. The petition in this case has been filed in good faith. The Debtor believes that the chapter 13 plan he has submitted will be confirmed and that she will be able to fully perform under the terms of the plan.
7. The Debtor's prior chapter 13 case, dismissed on May 4, 2010 was the only previous case by the Debtor that was pending during the preceding year.
8. The Debtor's prior chapter 13 case was not dismissed at a time when there had been a motion for relief that was pending before the court or resolved with an order terminating, conditioning, or limiting the stay.

9. HBI, LLC is a creditor that purchased the Debtor's property at a foreclosure sale and filed an unlawful detainer action to have the Debtor forcibly removed from the premises.

10. The matter of the unlawful detainer was heard before the Sarpy County, Nebraska District Court on August 9, 2010.

11. The Trial Court ordered that the execution of judgment on the unlawful detainer would be deferred until noon on Friday August 13, 2010 to see if the Debtor would be granted an extension of the automatic stay by the Bankruptcy Court in order to stop the eviction.

12. Thomas Young, Counsel for the creditor, was present during the hearing and was directed to prepare the Order of the trial Court. Therefore, the creditor is advised of this Motion for Extending the Automatic stay pending the appeal of the Debtor's case.

13. The Debtor also filed an adversary complaint concerning the wrongful foreclosure of his residential property and has requested that the court quiet the title.

WHEREFORE, the Debtor requests that this Court continue the automatic stay under section 362(a) as to all creditors for the duration of this chapter 13 proceeding and the adversary proceeding, or until such time as the stay is terminated under section 362(c)(1) or (c)(2), or a motion for relief is granted under section 362(d). Alternatively, the debtor requests that this Court issue an order pursuant to section 362(j) confirming that the automatic stay provided under section 362(a) will terminate under section 362(c)(3) only as to actions taken against the debtor or property of the debtor, but not as to actions taken against property of the estate or actions not taken in relation to a debt.

Dated: August 12, 2010

s/ John M. Carter  
John M. Carter  
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### **9013 Notice**

John M. Carter has filed EMERGENCY MOTION FOR CONTINUATION OF AUTOMATIC STAY IN CASE FILED WITHIN ONE YEAR AFTER DISMISSAL OF PRIOR BANKRUPTCY CASE. You have until September 1, 2010 to file any resistance to this motion, filing copies of any resistance upon John M. Carter and with the Court. If no one objects, the court may grant the relief requested in the objection.

**CERTIFICATE OF SERVICE**

IT IS HERBY CERTIFIED that a copy of the foregoing EMERGENCY MOTION FOR CONTINUATION OF AUTOMATIC STAY IN CASE FILED WITHIN ONE YEAR AFTER DISMISSAL OF PRIOR BANKRUPTCY CASE was sent by United States first class mail, Postage prepaid to the addressee below on August 12, 2010.

Thomas J. Young  
2433 South 130<sup>th</sup> Circle  
Omaha, Nebraska 68144

s/ John M. Carter